

EDWARDS ANGELL PALMER & DODGE LLP
Rory J. McEvoy (RM 1327)
Shari A. Alexander (SA 0615)
Attorneys for Defendants
750 Lexington Avenue
New York, New York 10022
212.308.4411

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
JOSEPH DI GIOVANNA,

Plaintiff,

-against-

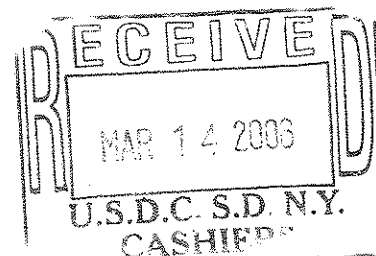
BETH ISRAEL MEDICAL CENTER, and
CONTINUUM HEALTH PARTNERS, INC.,

Defendants.
-----X

JUDGE KAPLAN

08 Civ. CV 02750

NOTICE OF REMOVAL



**TO: THE JUDGES OF THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF NEW YORK**

Beth Israel Medical Center ("BIMC") and Continuum Health Partners, Inc.

("Continuum"), Defendants in the action described below, respectfully remove this action from the Supreme Court of the State of New York, New York County, and show as follows:

1. On or about December 10, 2007, Plaintiff Joseph Di Giovanna ("Plaintiff") filed a Summons and Complaint with the Supreme Court of the State of New York, County of New York, entitled Joseph Di Giovanna v. Beth Israel Medical Center, and Continuum Health Partners, Inc., Index No. 07116457/07, (the "State Court Action"), alleging that BIMC and Continuum violated the Family and Medical Leave Act ("FMLA"), 29 U.S.C. §2601 *et. seq.* A copy of the Summons and Complaint is attached hereto as Exhibit 1.
2. Pursuant to 28 U.S.C. § 1446(b), this Notice of Removal is timely because it is filed within thirty (30) days of BIMC's and Continuum's receipt of the Summons and

Complaint, on February 19, 2008, by facsimile from Plaintiff's counsel. Although Plaintiff claims to have served the Complaint on BIMC and Continuum on January 10, 2008, the purported service of the Complaint on BIMC and Continuum was improper because the Complaint was not served on BIMC's agent designated to accept service of process or on Continuum's agent designated to accept service of process.

3. On March 5, 2008, Plaintiff served a Motion for a Default Judgment in the Supreme Court of the State of New York, County of New York. On March 7, 2008, Plaintiff served an Amended Motion for a Default Judgment in the Supreme Court of the State of New York, County of New York. A copy of the Notice of Motion and Affirmation in Support of Motion are attached hereto as Exhibit 2 and a copy of the Amended Notice of Motion and Affirmation in Support of Motion are attached hereto as Exhibit 3. No other process, pleadings or orders have been served on BIMC or Continuum.

4. Pursuant to Rule 81(c) of the Federal Rules of Civil Procedure, BIMC must serve any answering papers to Plaintiff's Complaint on or before March 21, 2008, five days after this Notice of Removal is filed.

5. This Court has original jurisdiction, as defined by 28 U.S.C. § 1331, over this civil action pursuant to Section 2617 of the FMLA, 29 U.S.C. § 2617, which provides that "[a]n action to recover the damages or equitable relief prescribed in paragraph (1) may be maintained against any employer (including a public agency) in any Federal or State court of competent jurisdiction...".

6. Accordingly, this action arises under federal law and is removable to this

Court pursuant to 28 U.S.C. §1441(b) because it seeks to assert claims arising
under the laws of the United States.

Dated: New York, New York
March 14, 2008

Respectfully submitted,

EDWARDS ANGELL PALMER & DODGE LLP

By: 
Rory J. McEvoy (RM 1327)

Attorneys for Defendant
750 Lexington Avenue
New York, New York 10022
212.308.4411

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

-----X
JOSEPH DI GIOVANNA,

Plaintiff,

-against-

Index No.: 07116457/a7

Date Filed: 12/11/07

SUMMONS

BETH ISRAEL MEDICAL CENTER, and
CONTINUUM HEALTH PARTNERS, INC.,
Defendants.
-----X

To: Beth Israel Medical Center
555 West 57th Street, 18th Floor
New York, NY 10019

YOU ARE HEREBY SUMMONED to answer the complaint in this action and to serve a copy of your answer on the plaintiff's attorneys within twenty (20) days after the service of this Summons, exclusive of the date of service, where service is made by delivery upon you personally within the State, or within thirty (30) days after completion of service where service is made in any other manner. In case of your failure to appear or to answer, judgment will be taken against you by default for the relief demanded in the complaint.

Plaintiff designates New York County as the place of trial.

The basis for venue is Defendant's place of business.

Dated: December 10, 2007
Roslyn, New York

THE LAW FIRM OF LOUIS GINSBERG, P.C.
Attorneys for Plaintiff
1613 Northern Boulevard
Roslyn, NY 11576
(516) 625-0105

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

JOSEPH DI GIOVANNA,

Plaintiff,

-against-

BETH ISRAEL MEDICAL CENTER and
CONTINUUM HEALTH PARTNERS, INC.,

Defendants.

Index No.:
Date Filed:

COMPLAINT
JURY TRIAL
DEMANDED

Plaintiff, Joseph Di Giovanna, by his counsel, The Law Firm of Louis Ginsberg,
P.C., alleges for his complaint as follows:

JURISDICTION

1. This Court has jurisdiction over this matter pursuant to the Family and Medical
Leave Act ("FMLA"), 29 U.S.C. §§2601 *et. seq.*

PARTIES

2. Plaintiff, Joseph Di Giovanna, resides at 66-45 73rd Place, Middle Village, NY
11379. Plaintiff is an "eligible employee" under 29 U.S.C. §2611(2)(A) in that he was
employed by Defendants for at least twelve (12) months and for at least 1,250 hours
during the twelve (12) month period prior to his leave.

3. Defendants, Beth Israel Medical Center, and Continuum Health Partners, Inc.,
jointly employed Plaintiff. They are employers under 29 U.S.C. § 2611(4)(A) in that
each is engaged in an industry affecting commerce and, upon information and belief,
each has had fifty (50) or more employees for each working day in each of twenty (20) or

more calendar weeks in the current or preceding calendar year. Defendants maintain several offices in New York City, including one at 170 East End Avenue at 87th Street, New York, NY 10128

FACTS

4. Plaintiff began his employment with Defendants on or about July 5, 2005. At all times herein, Plaintiff performed his job as the Director of Revenue Cycle Operations for Patient Accounts competently. In fact, Plaintiff received a pay raise in 2006 because of his good job performance.

5. On or about April 20, 2007, Plaintiff's supervisor, Allise Williams, wrote a recommendation letter for Plaintiff. In the letter, which was sent to Professor Edward J. Spiegel of St. Joseph's College, Ms. Williams explained that Plaintiff had reported to her directly for the past one (1) year and eight (8) months and that Plaintiff had excellent leadership skills, excellent supervisory and management skills and had a solid knowledge base in his field. Ms. Williams stated:

"Joseph has excellent leadership skills which allow him to solve problems and maintain departmental performance. During his time with us, Joseph has continually displayed excellent supervisory and management skills, led and presented at meeting and presentations. Joseph has a solid knowledge base in Revenue Cycle Operations, Continuous Quality Improvement, and as a departmental Director provides leadership in our recruitment efforts, and frequently leads various projects related to our organizational objectives and a Director affectively."

6. During 2007, Plaintiff spoke twice with Kathy Dakis, a Vice-President, about his father's serious illness and about Plaintiff's intention of filing for FMLA leave time. Plaintiff's father had been diagnosed with cancer and Plaintiff needed to assist his

father with doctors appointments, medication, and other care related to his father's illness. On both occasions, Ms. Dakis tried to convince Plaintiff not to file an FMLA request for leave time.

7. Subsequently, in or about early May, 2007, Plaintiff spoke with Ms. Williams about his father's illness and the fact that Plaintiff was going to file an FMLA request for time off. Ms. Williams also tried to discourage Plaintiff from filing his FMLA request.

8. On or about May 17, 2007, Plaintiff requested FMLA leave.

9. Plaintiff's father's condition qualified as a "serious medical condition" under 29 U.S.C. §2611(11)(B) and 29 C.F.R. §825.114(a)(3) in that it was an injury involving continuing treatment by a health care provider for a chronic or long-term health condition that was incurable or so serious that if not treated would likely result in a period of incapacity of more than three calendar days. In addition, Plaintiff was entitled to take intermittent time off under 29 U.S.C. § 2612 (b)(1) in order to help care for his father's serious medical condition.

10. On or about June 13, 2007, Plaintiff received a letter from Liberty Mutual Leave Services Team (his insurer through work) informing Plaintiff that his request for intermittent leave under the FMLA had been approved from May 14, 2007 to May 12, 2008.

11. Shortly thereafter, on or about July 2, 2007, Ms. Williams conducted an annual Performance Evaluation of Plaintiff's work. Although Ms. Williams indicated that Plaintiff met expectations in many categories, she also indicated that Plaintiff needed to make an "immediate improvement."

12. Much of Ms. Williams' Performance Appraisal of Plaintiff was in contradiction with the Letter of Recommendation she had written on his behalf less than two (2) months before, prior to Plaintiff's filing for FMLA time off. The only change that Plaintiff had made in that time was that he had filed for leave under the FMLA.

13. Subsequently, a co-worker of Plaintiff's, Karen Ferrel, had approached Plaintiff and had asked his advice regarding her own request for FMLA time off. Apparently, Ms. Williams had also given Ms. Ferrel a hard time with her FMLA request.

14. Similarly, Ms. Williams had tried to discourage Plaintiff from approving FMLA requests from employees who reported to him in his role as Department Head.

15. In or about September, 2007, Plaintiff's supervisor asked him to work additional hours. During this time period, Plaintiff had to take a few days off because of his father's serious illness.

16. Shortly thereafter, on or about October 29, 2007, Plaintiff's employment was terminated.

17. Plaintiff was unlawfully fired because he exercised his rights under the FMLA.

18. The conduct of Defendants and their agents violated Plaintiff's rights under the FMLA.

**AS AND FOR PLAINTIFF'S FIRST, SECOND, AND THIRD CAUSES OF
ACTION AGAINST DEFENDANTS PURSUANT TO THE FAMILY AND
MEDICAL LEAVE ACT**

19. Plaintiff incorporates paragraphs 1-18 as if fully rewritten herein.
20. By and through their course of conduct, Defendants and their agents willfully violated 29 U.S.C. §§ 2612, 2614, and 2615 *et seq.* by denying Plaintiff leave, by interfering with, restraining and/or denying the Plaintiff's exercise and attempted exercise of his FMLA rights and by terminating Plaintiff's employment because he exercised his FMLA rights, and opposed the interference with his rights and the rights of others.
21. Other than this lawsuit, there is no other complaint pending with any administrative agency or court regarding these events.

WHEREFORE, the Plaintiff prays that this Court:

- (a) accepts jurisdiction over this matter;
- (b) impanels and charges a jury with respect to the causes of action;
and,
- (c) awards the following damages jointly and severally against both the Defendants:
 - i. Back pay, front pay, and all benefits along with pre and post judgment interest in the amount of one million dollars (\$1,000,000.00);
 - ii. Liquidated and compensatory damages including, but not limited to, damages for pain and suffering, anxiety, humiliation, physical injuries and emotional distress in order to compensate him for the injuries he has suffered and to signal to other employers that discrimination in employment is repulsive to legislative enactments in the amount of one million dollars (\$1,000,000.00),

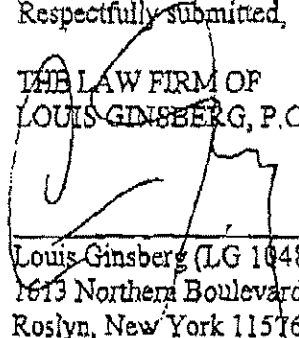
- iii. Attorney's fees, costs and expenses as provided for by the applicable statutes; and,
- iv. Any other relief which this Court deems just and equitable.

Dated: December 10, 2007
Roslyn, New York

Respectfully submitted,

THE LAW FIRM OF
LOUIS GINSBERG, P.C.

By:


Louis Ginsberg (LG 1048)
1613 Northern Boulevard
Roslyn, New York 11576
(516) 625-0105
Attorneys for Plaintiff

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK**

-----X
JOSEPH DI GIOVANNA

Plaintiff,

-against-

**BETH ISRAEL MEDICAL CENTER,
and CONTINUUM HEALTH
PARTNERS, INC.,**

Defendants.
-----X

Index No.: 07116437/07

NOTICE OF MOTION

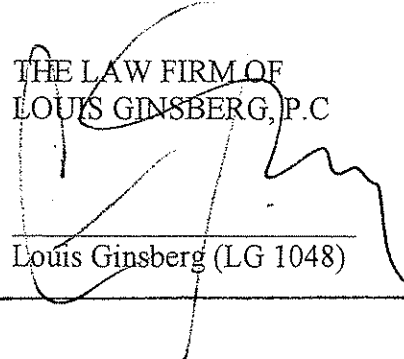
SIRS:

PLEASE TAKE NOTICE, that upon the annexed affirmation of Louis Ginsberg, Esq., dated March 5, 2008, the Summonses and Complaint filed December 11, 2007, and the Affidavits of Service dated January 16, 2008, Plaintiff will move this Court, pursuant to CPLR § 3215 at IAS Motion Support, to be held at the New York County Courthouse, located at 60 Centre Street, New York, New York 10007, on March 21, 2008 at 10:00 AM, for judgment as demanded in the Complaint on the ground that Defendants Beth Israel Medical Center and Continuum Health Partners, Inc. have defaulted in this action.

Dated: Roslyn, New York
March 5, 2008

THE LAW FIRM OF
LOUIS GINSBERG, P.C.

By:


Louis Ginsberg (LG 1048)

1613 Northern Boulevard
Roslyn, New York 11576
(516) 625-0105
Attorneys for Plaintiff

To: Rory McAvoy, Esq.
Edwards, Angell, Palmer & Dodge
750 Lexington Avenue
New York, New York 10022
Attorneys for Defendants

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK**

-----X
JOSEPH DI GIOVANNA,

Index No.: 07116437/07

Plaintiff,

-against-

**AFFIRMATION IN
SUPPORT OF MOTION**

**BETH ISRAEL MEDICAL CENTER and
CONTINUUM HEALTH PARTNERS, INC.,**

Defendants.
-----X

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

Louis Ginsberg, an attorney duly admitted to practice before the Courts of the State of New York, under penalty of perjury, affirms as follows:

1. I am a lawyer with the Law Firm of Louis Ginsberg, P.C., attorneys for Plaintiff in the above entitled action and I am familiar with the facts and circumstances set forth herein.
2. I make this Affirmation in support of Plaintiff's Motion for a Default Judgment.
3. The Complaint sets forth causes of action for violation of 29 U.S.C. §§ 2612, 2614, and 2615 *et seq.* ("FMLA") by denying Plaintiff leave, by interfering with, restraining and/or denying the Plaintiff's exercise and attempted exercise of his FMLA rights and by terminating Plaintiff's employment because he exercised his FMLA rights, and opposed the interference with his rights and the rights of others.

4. Plaintiff filed his Complaint with the Supreme Court of the State of New York, New York County on or about December 11, 2007 (see Summonses and Complaint attached as **Exhibit A**).

5. Service was made upon Defendants Beth Israel Medical Center and Continuum Health Partners, Inc. on or about January 10, 2008 (see Affidavits of Service attached as **Exhibit B**).

6. To date, Defendants Beth Israel Medical Center and Continuum Health Partners, Inc. have failed to respond to Plaintiff's Complaint. Defendants Beth Israel Medical Center and Continuum Health Partners, Inc. are in default.

7. Plaintiff respectfully requests that this Court enter a default judgment against Defendants Beth Israel Medical Center and Continuum Health Partners, Inc. and schedule an Inquest Hearing for determining damages.

WHEREFORE, Plaintiff respectfully requests that judgment be entered against Defendants Beth Israel Medical Center and Continuum Health Partners, Inc., together with interest, costs and disbursements, as demanded in the Complaint.

Dated: March 5, 2008
Roslyn, New York

By:

Respectfully submitted,

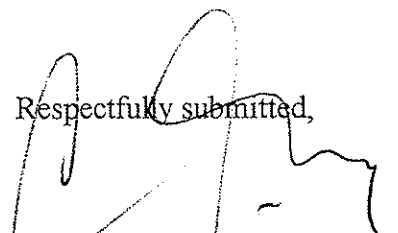

Louis Ginsberg (LG 1048)
For the Law Firm of
Louis Ginsberg, P.C.
1613 Northern Blvd.
Roslyn, New York 11576
(516) 625-0105
Attorneys for Plaintiff

EXHIBIT A

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

-----X
JOSEPH DI GIOVANNA,

Plaintiff,

-against-

Index No.: 07116437/07

Date Filed: 12/14/07

SUMMONS

BETH ISRAEL MEDICAL CENTER, and
CONTINUUM HEALTH PARTNERS, INC.,
Defendants.

-----X

To: Beth Israel Medical Center
555 West 57th Street, 18th Floor
New York, NY 10019

YOU ARE HEREBY SUMMONED to answer the complaint in this action and to serve a copy of your answer on the plaintiff's attorneys within twenty (20) days after the service of this Summons, exclusive of the date of service, where service is made by delivery upon you personally within the State, or within thirty (30) days after completion of service where service is made in any other manner. In case of your failure to appear or to answer, judgment will be taken against you by default for the relief demanded in the complaint.

Plaintiff designates New York County as the place of trial.

The basis for venue is Defendant's place of business.

Dated: December 10, 2007
Roslyn, New York

THE LAW FIRM OF LOUIS GINSBERG, P.C.
Attorneys for Plaintiff
1613 Northern Boulevard
Roslyn, NY 11576
(516) 625- 0105

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

-----X
JOSEPH DI GIOVANNA,

Plaintiff,

-against-

Index No.:

Date Filed:

SUMMONS

BETH ISRAEL MEDICAL CENTER, and
CONTINUUM HEALTH PARTNERS, INC.,
Defendants.

-----X

To: Continuum Health Partners, Inc.
555 West 57th Street, 18th Floor
New York, NY 10019

YOU ARE HEREBY SUMMONED to answer the complaint in this action and to serve a copy of your answer on the plaintiff's attorneys within twenty (20) days after the service of this Summons, exclusive of the date of service, where service is made by delivery upon you personally within the State, or within thirty (30) days after completion of service where service is made in any other manner. In case of your failure to appear or to answer, judgment will be taken against you by default for the relief demanded in the complaint.

Plaintiff designates New York County as the place of trial.

The basis for venue is Defendant's place of business.

Dated: December 10, 2007
Roslyn, New York

THE LAW FIRM OF LOUIS GINSBERG, P.C.
Attorneys for Plaintiff
1613 Northern Boulevard
Roslyn, NY 11576
(516) 625- 0105

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

-----X
JOSEPH DI GIOVANNA,

Plaintiff,

-against-

Index No.:
Date Filed:

COMPLAINT
JURY TRIAL
DEMANDED

BETH ISRAEL MEDICAL CENTER and
CONTINUUM HEALTH PARTNERS, INC.,

Defendants.

-----X

Plaintiff, Joseph Di Giovanna, by his counsel, The Law Firm of Louis Ginsberg,
P.C., alleges for his complaint as follows:

JURISDICTION

1. This Court has jurisdiction over this matter pursuant to the Family and Medical Leave Act ("FMLA"), 29 U.S.C. §§2601 *et. seq.*

PARTIES

2. Plaintiff, Joseph Di Giovanna, resides at 66-45 73rd Place, Middle Village, NY 11379. Plaintiff is an "eligible employee" under 29 U.S.C. §2611(2)(A) in that he was employed by Defendants for at least twelve (12) months and for at least 1,250 hours during the twelve (12) month period prior to his leave.
3. Defendants, Beth Israel Medical Center, and Continuum Health Partners, Inc., jointly employed Plaintiff. They are employers under 29 U.S.C. § 2611(4)(A) in that each is engaged in an industry affecting commerce and, upon information and belief, each has had fifty (50) or more employees for each working day in each of twenty (20) or

more calendar weeks in the current or preceding calendar year. Defendants maintain several offices in New York City, including one at 170 East End Avenue at 87th Street, New York, NY 10128.

FACTS

4. Plaintiff began his employment with Defendants on or about July 5, 2005. At all times herein, Plaintiff performed his job as the Director of Revenue Cycle Operations for Patient Accounts competently. In fact, Plaintiff received a pay raise in 2006 because of his good job performance.

5. On or about April 20, 2007, Plaintiff's supervisor, Allise Williams, wrote a recommendation letter for Plaintiff. In the letter, which was sent to Professor Edward J. Spiegel of St. Joseph's College, Ms. Williams explained that Plaintiff had reported to her directly for the past one (1) year and eight (8) months and that Plaintiff had excellent leadership skills, excellent supervisory and management skills and had a solid knowledge base in his field. Ms. Williams stated:

"Joseph has excellent leadership skills which allow him to solve problems and maintain departmental performance. During his time with us, Joseph has continually displayed excellent supervisory and management skills, led and presented at meeting and presentations. Joseph has a solid knowledge base in Revenue Cycle Operations, Continuous Quality Improvement, and as a departmental Director provides leadership in our recruitment efforts, and frequently leads various projects related to our organizational objectives and a Director affectively."

6. During 2007, Plaintiff spoke twice with Kathy Dakis, a Vice-President, about his father's serious illness and about Plaintiff's intention of filing for FMLA leave time. Plaintiff's father had been diagnosed with cancer and Plaintiff needed to assist his

father with doctors appointments, medication, and other care related to his father's illness. On both occasions, Ms. Dakis tried to convince Plaintiff not to file an FMLA request for leave time.

7. Subsequently, in or about early May, 2007, Plaintiff spoke with Ms. Williams about his father's illness and the fact that Plaintiff was going to file an FMLA request for time off. Ms. Williams also tried to discourage Plaintiff from filing his FMLA request.

8. On or about May 17, 2007, Plaintiff requested FMLA leave.

9. Plaintiff's father's condition qualified as a "serious medical condition" under 29 U.S.C. §2611(11)(B) and 29 C.F.R. §825.114(a)(3) in that it was an injury involving continuing treatment by a health care provider for a chronic or long-term health condition that was incurable or so serious that if not treated would likely result in a period of incapacity of more than three calendar days. In addition, Plaintiff was entitled to take intermittent time off under 29 U.S.C. § 2612 (b)(1) in order to help care for his father's serious medical condition.

10. On or about June 13, 2007, Plaintiff received a letter from Liberty Mutual Leave Services Team (his insurer through work) informing Plaintiff that his request for intermittent leave under the FMLA had been approved from May 14, 2007 to May 12, 2008.

11. Shortly thereafter, on or about July 2, 2007, Ms. Williams conducted an annual Performance Evaluation of Plaintiff's work. Although Ms. Williams indicated that Plaintiff met expectations in many categories, she also indicated that Plaintiff needed to make an "immediate improvement."

12. Much of Ms. Williams' Performance Appraisal of Plaintiff was in contradiction with the Letter of Recommendation she had written on his behalf less than two (2) months before, prior to Plaintiff's filing for FMLA time off. The only change that Plaintiff had made in that time was that he had filed for leave under the FMLA.

13. Subsequently, a co-worker of Plaintiff's, Karen Ferrel, had approached Plaintiff and had asked his advice regarding her own request for FMLA time off. Apparently, Ms. Williams had also given Ms. Ferrel a hard time with her FMLA request.

14. Similarly, Ms. Williams had tried to discourage Plaintiff from approving FMLA requests from employees who reported to him in his role as Department Head.

15. In or about September, 2007, Plaintiff's supervisor asked him to work additional hours. During this time period, Plaintiff had to take a few days off because of his father's serious illness.

16. Shortly thereafter, on or about October 29, 2007, Plaintiff's employment was terminated.

17. Plaintiff was unlawfully fired because he exercised his rights under the FMLA.

18. The conduct of Defendants and their agents violated Plaintiff's rights under the FMLA.

AS AND FOR PLAINTIFF'S FIRST, SECOND, AND THIRD CAUSES OF
ACTION AGAINST DEFENDANTS PURSUANT TO THE FAMILY AND
MEDICAL LEAVE ACT

19. Plaintiff incorporates paragraphs 1-18 as if fully rewritten herein.
20. By and through their course of conduct, Defendants and their agents willfully violated 29 U.S.C. §§ 2612, 2614, and 2615 *et seq.* by denying Plaintiff leave, by interfering with, restraining and/or denying the Plaintiff's exercise and attempted exercise of his FMLA rights and by terminating Plaintiff's employment because he exercised his FMLA rights, and opposed the interference with his rights and the rights of others.
21. Other than this lawsuit, there is no other complaint pending with any administrative agency or court regarding these events.

WHEREFORE, the Plaintiff prays that this Court:

- (a) accepts jurisdiction over this matter;
- (b) impanels and charges a jury with respect to the causes of action;
and,
- (c) awards the following damages jointly and severally against both the Defendants:
 - i. Back pay, front pay, and all benefits along with pre and post judgment interest in the amount of one million dollars (\$1,000,000.00);
 - ii. Liquidated and compensatory damages including, but not limited to, damages for pain and suffering, anxiety, humiliation, physical injuries and emotional distress in order to compensate him for the injuries he has suffered and to signal to other employers that discrimination in employment is repulsive to legislative enactments in the amount of one million dollars (\$1,000,000.00),

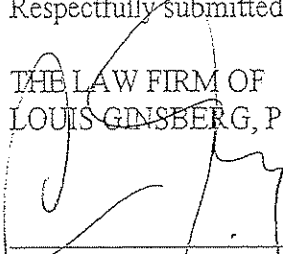
- iii. Attorney's fees, costs and expenses as provided for by the applicable statutes; and,
- iv. Any other relief which this Court deems just and equitable.

Dated: December 10, 2007
Roslyn, New York

Respectfully submitted,

THE LAW FIRM OF
LOUIS GINSBERG, P.C.

By:



Louis Ginsberg (LG 1048)
1613 Northern Boulevard
Roslyn, New York 11576
(516) 625-0105
Attorneys for Plaintiff

EXHIBIT B

(Signature)

ABC PROCESS SERVICE INC.
Attorney:
LOUIS GINSBERG, P.C.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

JOSEPH DI GIOVANNA

(PLAINTIFF)

Index No 07116437

against

Date Filed 12/11/2007

Office No LOG010555WE

BETH ISRAEL MEDICAL CENTER, ETAL;

(DEFENDANT)

STATE OF NEW YORK, COUNTY OF NEW YORK

SS:

SCHADRAC LAGUERRE being duly sworn, deposes and says

that he is over the age of 18 years, not a party to the action, and resides in the State of New York:

That on the 10 day of January 2008 at 2:50 PM, at

555 WEST 57TH ST, 18TH FLR;NY, NY 10019

he served the annexed SUMMONS, COMPLAINT AND JURY TRIAL DEMANDED

upon BETH ISRAEL MEDICAL CENTER,

in this action, by delivering to and leaving with said MS. M. ORTIZ, MANAGING AGENT

a true copy thereof.

Deponent describes person served as aforesaid to the best of deponents ability at the time and circumstances of service as follows:

1. Sex FEMALE Color BROWN Hair BLACK app.age 40 YRS app.ht 5'8" app.wt 150 LBS

DEPONENT FURTHER SAYS, that he knew the Corporation so served as aforesaid to be the Corporation mentioned and described in the said SUMMONS, COMPLAINT AND JURY TRIAL DEMANDED.

SWORN to before me this 16

day of January 2008

(Signature)

SCHADRAC LAGUERRE
License No.: 1021952

:bb

(Signature)
JAY BRODSKY
Notary Public, State of New York
No. 31-4683271
Qualified in New York County
Commission Expires Feb. 2, 2011

NEW YORK
COUNTY CLERK'S OFFICE

JAN 22 2008

NOT COMPARED
WITH COPY FILE

For Clerk Only	Pls entry date	Judge Assigned	ROI Date
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PLAINTIFF(S): JOSEPH DI GIOVANNA
DEFENDANT(S): BETH ISRAEL MEDICAL CENTER and CONTINUUM HEALTH PARTNERS, INC.
COURT: SUPREME COUNTY: NEW YORK INDEX NO.: 071K43707 DATE RECEIVED: 12/11/07

REQUEST FOR JUDICIAL INTERVENTION

DATE ISSUE JOINED: 1/10/05 ALL OF PARTICULARS SERVED (Y/N): [] Yes [X] No

NATURE OF JUDICIAL INTERVENTION (check ONE box only AND enter information):

[] Request for preliminary conference

[] Note of issue and/or certificate of readiness

[X] Notice of motion (return date: 3/21/08) *definitive judgment*

[] Order to show cause (clerk enter return date:)

[] Relied sought

[] Other ex parte application (specify:)

NATURE OF ACTION OR PROCEEDING (check ONE box only):

REAL PROPERTY

[] Tax Certificate

[] Tax Lien

[] Foreclosure

[] Condominium

[] Landlord/Tenant

[] Other Real Property

CONTRACT

[] Contract

[] Insurance (where insurer is a party, except arbitration)

[] UCC (including sales, negotiable instruments)

[] Other Commercial

OTHER PROCEEDINGS

[] Other Tort (including intentional)

[] Other Negligence

[] Breach of Contract

[] Subrogation

[] Environmental

[] Motor Vehicle

[] Products Liability

[] Professional

[] Other

[] Other Special Proceedings

[] Other Mental Hygiene

[] Guardianship (MEL Art. 51)

[] Election Law

[] Art. 78

[] Art. 77 (Trusts)

[] Art. 75 (Arbitration)

[] Other

Check "YES" or "NO" for each of the following questions:

Is this action/proceeding against a

YES NO
☐ ☒ Municipality: YES NO
☐ ☒ Public Authority:
 (Specify _____) (Specify _____)

YES NO
☐ ☒ Does this action/proceeding seek equitable relief?
☐ ☒ Does this action/proceeding seek recovery for personal injury?
☐ ☒ Does this action/proceeding seek recovery for property damage?

Pre-Note Time Frames:

(This applies to all cases except contested matrimonials and tax certiorari cases)

Estimated time period for case to be ready for trial (from filing of RJI to filing of Note of Issue):

☐ Expedited: 0-8 months ☒ Standard: 9-12 months ☐ Complex: 12-15 months

Contested Matrimonial Cases Only: (Check and give date)

Has summons been served? ☐ No ☐ Yes, Date _____

Was a Notice of No Necessity filed? ☐ No ☐ Yes, Date _____

ATTORNEY(S) FOR PLAINTIFF(S):

<u>Self Rep.*</u>	<u>Name</u>	<u>Address</u>	<u>Phone #</u>
<input type="checkbox"/>	The Law Firm of Louis Ginsberg, P.C.	1613 Northern Blvd. Roslyn, NY 11576	(516) 625-0105

ATTORNEY(S) FOR DEFENDANT(S):

<u>Self Rep.*</u>	<u>Name</u>	<u>Address</u>	<u>Phone #</u>
<input type="checkbox"/>	Edwards, Angell, Palmer + Dodge	750 Lexington Ave NY, NY 10022	(212) 912-2187

*Self Represented: parties representing themselves, without an attorney, should check the "Self Rep." box and enter their name, address, and phone # in the space provided above for attorneys.

INSURANCE CARRIERS:

UNKNOWN

RELATED CASES: (If NONE, write "NONE" below)

Title Index # Court Nature of Relationship

NONE

I AFFIRM UNDER PENALTY OF PERJURY THAT, TO MY KNOWLEDGE, OTHER THAN AS NOTED ABOVE, THERE ARE AND HAVE BEEN NO RELATED ACTIONS OR PROCEEDINGS, NOR HAS A REQUEST FOR JUDICIAL INTERVENTION PREVIOUSLY BEEN FILED IN THIS ACTION OR PROCEEDING.

Dated:

3/5/08

(SIGNATURE)
 Louis Ginsberg
 (PRINT OR TYPE NAME)
 Plaintiff
 ATTORNEY FOR

ATTACH RIDER SHEET IF NECESSARY TO PROVIDE REQUIRED INFORMATION

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK**

JOSEPH DI GIOVANNA,

Plaintiff,

-against-

**BETH ISRAEL MEDICAL CENTER and,
CONTINUUM HEALTH PARTNERS, INC.,**

Defendants.

REQUEST FOR JUDICIAL INTERVENTION

**The Law Firm of Louis Ginsberg P.C.
1613 Northern Blvd.
Roslyn, NY 11576
(516) 625- 0105**

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

JOSEPH DI GIOVANNA,

Plaintiff,

-against-

BETH ISRAEL MEDICAL CENTER,
and CONTINUUM HEALTH PARTNERS, INC.

Defendants.

NOTICE OF MOTION

The Law Firm of Louis Ginsberg P.C.
1613 Northern Blvd.
Roslyn, NY 11576
(516) 625- 0105

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK**

-----X	
JOSEPH DI GIOVANNA	:
	:
	:
Plaintiff,	:
	:
-against-	:
	:
BETH ISRAEL MEDICAL CENTER,	:
and CONTINUUM HEALTH	:
PARTNERS, INC.,	:
	:
Defendants.	:
-----X	

Index No.: 07116437/07

**AMENDED NOTICE OF
MOTION**

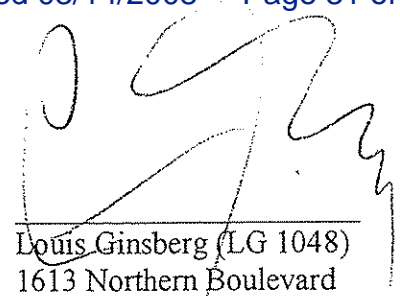
SIRS:

PLEASE TAKE NOTICE, that upon the annexed affirmation of Louis Ginsberg, Esq., dated March 5, 2008, the Summonses and Complaint filed December 11, 2007, and the Affidavits of Service dated January 16, 2008, Plaintiff will move this Court, pursuant to CPLR § 3215 at the Motion Submission Part, Room 130, to be held at the Supreme Court located at 60 Centre Street, New York, New York 10007, on March 27, 2008 at 9:30 AM, for judgment as demanded in the Complaint on the ground that Defendants Beth Israel Medical Center and Continuum Health Partners, Inc. have defaulted in this action.

Dated: Roslyn, New York
March 7, 2008

THE LAW FIRM OF
LOUIS GINSBERG, P.C

By:



Louis Ginsberg (LG 1048)
1613 Northern Boulevard
Roslyn, New York 11576
(516) 625-0105
Attorneys for Plaintiff

To: Rory McAvoy, Esq.
Edwards, Angell, Palmer & Dodge
750 Lexington Avenue
New York, New York 10022
Attorneys for Defendants

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK**

-----X
JOSEPH DI GIOVANNA,

Index No.: 07116437/07

Plaintiff,

-against-

**AFFIRMATION IN
SUPPORT OF MOTION**

**BETH ISRAEL MEDICAL CENTER and
CONTINUUM HEALTH PARTNERS, INC.,**

Defendants.

-----X

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

Louis Ginsberg, an attorney duly admitted to practice before the Courts of the State of New York, under penalty of perjury, affirms as follows:

1. I am a lawyer with the Law Firm of Louis Ginsberg, P.C., attorneys for Plaintiff in the above entitled action and I am familiar with the facts and circumstances set forth herein.
2. I make this Affirmation in support of Plaintiff's Motion for a Default Judgment.
3. The Complaint sets forth causes of action for violation of 29 U.S.C. §§ 2612, 2614, and 2615 *et seq.* ("FMLA") by denying Plaintiff leave, by interfering with, restraining and/or denying the Plaintiff's exercise and attempted exercise of his FMLA rights and by terminating Plaintiff's employment because he exercised his FMLA rights, and opposed the interference with his rights and the rights of others.

4. Plaintiff filed his Complaint with the Supreme Court of the State of New York, New York County on or about December 11, 2007 (see Summonses and Complaint attached as **Exhibit A**).

5. Service was made upon Defendants Beth Israel Medical Center and Continuum Health Partners, Inc. on or about January 10, 2008 (see Affidavits of Service attached as **Exhibit B**).

6. To date, Defendants Beth Israel Medical Center and Continuum Health Partners, Inc. have failed to respond to Plaintiff's Complaint. Defendants Beth Israel Medical Center and Continuum Health Partners, Inc. are in default.

7. Plaintiff respectfully requests that this Court enter a default judgment against Defendants Beth Israel Medical Center and Continuum Health Partners, Inc. and schedule an Inquest Hearing for determining damages.

WHEREFORE, Plaintiff respectfully requests that judgment be entered against Defendants Beth Israel Medical Center and Continuum Health Partners, Inc., together with interest, costs and disbursements, as demanded in the Complaint.

Dated: March 5, 2008
Roslyn, New York

By:

Respectfully submitted,

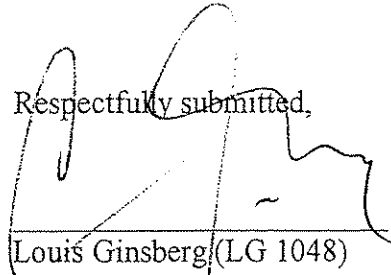

Louis Ginsberg (LG 1048)
For the Law Firm of
Louis Ginsberg, P.C.
1613 Northern Blvd.
Roslyn, New York 11576
(516) 625-0105
Attorneys for Plaintiff

EXHIBIT A

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

-----X
JOSEPH DI GIOVANNA,

Plaintiff,

-against-

Index No.: 0711645707

Date Filed: 12/11/07

SUMMONS

BETH ISRAEL MEDICAL CENTER, and
CONTINUUM HEALTH PARTNERS, INC.,
Defendants.
-----X

To: Beth Israel Medical Center
555 West 57th Street, 18th Floor
New York, NY 10019

YOU ARE HEREBY SUMMONED to answer the complaint in this action and to serve a copy of your answer on the plaintiff's attorneys within twenty (20) days after the service of this Summons, exclusive of the date of service, where service is made by delivery upon you personally within the State, or within thirty (30) days after completion of service where service is made in any other manner. In case of your failure to appear or to answer, judgment will be taken against you by default for the relief demanded in the complaint.

Plaintiff designates New York County as the place of trial.

The basis for venue is Defendant's place of business.

Dated: December 10, 2007
Roslyn, New York

THE LAW FIRM OF LOUIS GINSBERG, P.C.
Attorneys for Plaintiff
1613 Northern Boulevard
Roslyn, NY 11576
(516) 625- 0105

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

-----X
JOSEPH DI GIOVANNA,

Plaintiff,

-against-

Index No.:

Date Filed:

SUMMONS

BETH ISRAEL MEDICAL CENTER, and
CONTINUUM HEALTH PARTNERS, INC.,
Defendants.

-----X

To: Continuum Health Partners, Inc.
555 West 57th Street, 18th Floor
New York, NY 10019

YOU ARE HEREBY SUMMONED to answer the complaint in this action and to serve a copy of your answer on the plaintiff's attorneys within twenty (20) days after the service of this Summons, exclusive of the date of service, where service is made by delivery upon you personally within the State, or within thirty (30) days after completion of service where service is made in any other manner. In case of your failure to appear or to answer, judgment will be taken against you by default for the relief demanded in the complaint.

Plaintiff designates New York County as the place of trial.

The basis for venue is Defendant's place of business.

Dated: December 10, 2007
Roslyn, New York

THE LAW FIRM OF LOUIS GINSBERG, P.C.
Attorneys for Plaintiff
1613 Northern Boulevard
Roslyn, NY 11576
(516) 625-0105

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

-----X
JOSEPH DI GIOVANNA,

Plaintiff,

-against-

Index No.:

Date Filed:

COMPLAINT
JURY TRIAL
DEMANDED

BETH ISRAEL MEDICAL CENTER and
CONTINUUM HEALTH PARTNERS, INC.,

Defendants.
-----X

Plaintiff, Joseph Di Giovanna, by his counsel, The Law Firm of Louis Ginsberg,
P.C., alleges for his complaint as follows:

JURISDICTION

1. This Court has jurisdiction over this matter pursuant to the Family and Medical
Leave Act ("FMLA"), 29 U.S.C. §§2601 *et. seq.*

PARTIES

2. Plaintiff, Joseph Di Giovanna , resides at 66-45 73rd Place, Middle Village, NY
11379. Plaintiff is an "eligible employee" under 29 U.S.C. §2611(2)(A) in that he was
employed by Defendants for at least twelve (12) months and for at least 1,250 hours
during the twelve (12) month period prior to his leave.

3. Defendants, Beth Israel Medical Center, and Continuum Health Partners, Inc.,
jointly employed Plaintiff. They are employers under 29 U.S.C. § 2611(4)(A) in that
each is engaged in an industry affecting commerce and, upon information and belief,
each has had fifty (50) or more employees for each working day in each of twenty (20) or

more calendar weeks in the current or preceding calendar year. Defendants maintain several offices in New York City, including one at 170 East End Avenue at 87th Street, New York, NY 10128.

FACTS

4. Plaintiff began his employment with Defendants on or about July 5, 2005. At all times herein, Plaintiff performed his job as the Director of Revenue Cycle Operations for Patient Accounts competently. In fact, Plaintiff received a pay raise in 2006 because of his good job performance.

5. On or about April 20, 2007, Plaintiff's supervisor, Allise Williams, wrote a recommendation letter for Plaintiff. In the letter, which was sent to Professor Edward J. Spiegel of St. Joseph's College, Ms. Williams explained that Plaintiff had reported to her directly for the past one (1) year and eight (8) months and that Plaintiff had excellent leadership skills, excellent supervisory and management skills and had a solid knowledge base in his field. Ms. Williams stated:

"Joseph has excellent leadership skills which allow him to solve problems and maintain departmental performance. During his time with us, Joseph has continually displayed excellent supervisory and management skills, led and presented at meeting and presentations. Joseph has a solid knowledge base in Revenue Cycle Operations, Continuous Quality Improvement, and as a departmental Director provides leadership in our recruitment efforts, and frequently leads various projects related to our organizational objectives and a Director affectively."

6. During 2007, Plaintiff spoke twice with Kathy Dakis, a Vice-President, about his father's serious illness and about Plaintiff's intention of filing for FMLA leave time. Plaintiff's father had been diagnosed with cancer and Plaintiff needed to assist his

father with doctors appointments, medication, and other care related to his father's illness. On both occasions, Ms. Dakis tried to convince Plaintiff not to file an FMLA request for leave time.

7. Subsequently, in or about early May, 2007, Plaintiff spoke with Ms. Williams about his father's illness and the fact that Plaintiff was going to file an FMLA request for time off. Ms. Williams also tried to discourage Plaintiff from filing his FMLA request.

8. On or about May 17, 2007, Plaintiff requested FMLA leave.

9. Plaintiff's father's condition qualified as a "serious medical condition" under 29 U.S.C. §2611(11)(B) and 29 C.F.R. §825.114(a)(3) in that it was an injury involving continuing treatment by a health care provider for a chronic or long-term health condition that was incurable or so serious that if not treated would likely result in a period of incapacity of more than three calendar days. In addition, Plaintiff was entitled to take intermittent time off under 29 U.S.C. § 2612 (b)(1) in order to help care for his father's serious medical condition.

10. On or about June 13, 2007, Plaintiff received a letter from Liberty Mutual Leave Services Team (his insurer through work) informing Plaintiff that his request for intermittent leave under the FMLA had been approved from May 14, 2007 to May 12, 2008.

11. Shortly thereafter, on or about July 2, 2007, Ms. Williams conducted an annual Performance Evaluation of Plaintiff's work. Although Ms. Williams indicated that Plaintiff met expectations in many categories, she also indicated that Plaintiff needed to make an "immediate improvement."

12. Much of Ms. Williams' Performance Appraisal of Plaintiff was in contradiction with the Letter of Recommendation she had written on his behalf less than two (2) months before, prior to Plaintiff's filing for FMLA time off. The only change that Plaintiff had made in that time was that he had filed for leave under the FMLA.

13. Subsequently, a co-worker of Plaintiff's, Karen Ferrel, had approached Plaintiff and had asked his advice regarding her own request for FMLA time off. Apparently, Ms. Williams had also given Ms. Ferrel a hard time with her FMLA request.

14. Similarly, Ms. Williams had tried to discourage Plaintiff from approving FMLA requests from employees who reported to him in his role as Department Head.

15. In or about September, 2007, Plaintiff's supervisor asked him to work additional hours. During this time period, Plaintiff had to take a few days off because of his father's serious illness.

16. Shortly thereafter, on or about October 29, 2007, Plaintiff's employment was terminated.

17. Plaintiff was unlawfully fired because he exercised his rights under the FMLA.

18. The conduct of Defendants and their agents violated Plaintiff's rights under the FMLA.

AS AND FOR PLAINTIFF'S FIRST, SECOND, AND THIRD CAUSES OF
ACTION AGAINST DEFENDANTS PURSUANT TO THE FAMILY AND
MEDICAL LEAVE ACT

19. Plaintiff incorporates paragraphs 1-18 as if fully rewritten herein.
20. By and through their course of conduct, Defendants and their agents willfully violated 29 U.S.C. §§ 2612, 2614, and 2615 *et seq.* by denying Plaintiff leave, by interfering with, restraining and/or denying the Plaintiff's exercise and attempted exercise of his FMLA rights and by terminating Plaintiff's employment because he exercised his FMLA rights, and opposed the interference with his rights and the rights of others.
21. Other than this lawsuit, there is no other complaint pending with any administrative agency or court regarding these events.

WHEREFORE, the Plaintiff prays that this Court:

- (a) accepts jurisdiction over this matter;
- (b) impanels and charges a jury with respect to the causes of action;
and,
- (c) awards the following damages jointly and severally against both the Defendants:
 - i. Back pay, front pay, and all benefits along with pre and post judgment interest in the amount of one million dollars (\$1,000,000.00);
 - ii. Liquidated and compensatory damages including, but not limited to, damages for pain and suffering, anxiety, humiliation, physical injuries and emotional distress in order to compensate him for the injuries he has suffered and to signal to other employers that discrimination in employment is repulsive to legislative enactments in the amount of one million dollars (\$1,000,000.00),

- iii. Attorney's fees, costs and expenses as provided for by the applicable statutes; and,
- iv. Any other relief which this Court deems just and equitable.

Dated: December 10, 2007
Roslyn, New York

Respectfully submitted,

THE LAW FIRM OF
LOUIS GINSBERG, P.C.

By:

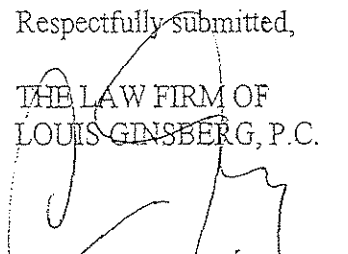

Louis Ginsberg (LG 1048)
1613 Northern Boulevard
Roslyn, New York 11576
(516) 625-0105
Attorneys for Plaintiff

EXHIBIT B

(Copy)

ABC PROCESS SERVICE INC.
Attorney:
LOUIS GINSBERG, P.C.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

JOSEPH DI GIOVANNA

(PLAINTIFF)

Index No 07116437

against

Date Filed / /

Office No LOG010555WB

BETH ISRAEL MEDICAL CENTER, ETAL;

(DEFENDANT)

STATE OF NEW YORK, COUNTY OF NEW YORK

SS:

SCHADRAC LAGUERRE being duly sworn, deposes and says
that he is over the age of 18 years, not a party to the action, and resides in the State of New York:
That on the 10 day of January 2008 at 2:50 PM, at
555 WEST 57TH ST, 18TH FLR;NY, NY 10019
he served the annexed SUMMONS, COMPLAINT AND JURY TRIAL DEMANDED
upon CONTINUUM HEALTH PARTNERS, INC.
in this action, by delivering to and leaving with said MS. M. ORTIZ, MANAGING AGENT
a true copy thereof.

Deponent describes person served as aforesaid to the best of deponents ability at the
time and circumstances of service as follows:

1. Sex FEMALE Color BROWN Hair BLACK app.age 40 YRS app.ht 5'8" app.wt 150 LBS

DEPONENT FURTHER SAYS, that he knew the Corporation so served as aforesaid to be
the Corporation mentioned and described in the said SUMMONS, COMPLAINT AND JURY TRIAL DEMANDED.

SWORN to before me this 16

day of January 2008

SCHADRAC LAGUERRE
License No.: 1021852

:bb

JAY BRODSKY
Notary Public, State of New York
No. 31-460377
Qualified in New York County
Commission Expires Feb 2, 2011

NEW YORK
COUNTY CLERK

FILED

NOTARY PUBLIC

(Copy)

ABC PROCESS SERVICE INC.
Attorney:
LOUIS GINSBERG, P.C.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

JOSEPH DI GIOVANNA

(PLAINTIFF)

against

Index No 07116437

Date Filed 12/11/2007

Office No LOG010555WE

BETH ISRAEL MEDICAL CENTER, ETAL;

(DEFENDANT)

STATE OF NEW YORK, COUNTY OF NEW YORK

SS:

SCHADRAC LAGUERRE being duly sworn, deposes and says

that he is over the age of 18 years, not a party to the action, and resides in the State of New York:

That on the 10 day of January 2008 at 2:50 PM, at

555 WEST 57TH ST, 18TH FLR;NY, NY 10019

he served the annexed SUMMONS, COMPLAINT AND JURY TRIAL DEMANDED

upon BETH ISRAEL MEDICAL CENTER,

in this action, by delivering to and leaving with said MS. M. ORTIZ, MANAGING AGENT

a true copy thereof.

Deponent describes person served as aforesaid to the best of deponents ability at the time and circumstances of service as follows:

1. Sex FEMALE Color BROWN Hair BLACK app.age 40 YRS app.ht 5'8" app.wt 150 LBS

DEPONENT FURTHER SAYS, that he knew the Corporation so served as aforesaid to be the Corporation mentioned and described in the said SUMMONS, COMPLAINT AND JURY TRIAL DEMANDED.

SWORN to before me this 16

day of January 2008

SCHADRAC LAGUERRE

License No.: 1021952

.bb

JAY BRODSKY
Notary Public, State of New York
No. 31-663271
Qualified in New York County
Commission Expires Feb. 1, 2011

NEW YORK
COUNTY CLERK'S OFFICE

JAN 22 2008

NOT COMPLETED
WITH COPY FILE

UCS-840 (REV 1/2000)

REQUEST FOR JUDICIAL INTERVENTION

SUPREME NEW YORK 0716437/07 12/11/07
 COURT COUNTY INDEX NO. DATE PURCHASED

PLAINTIFF(S):

JOSEPH DI GIOVANNA

DEFENDANT(S):

BETH ISRAEL MEDICAL
 CENTER and CONTINUUM
 HEALTH PARTNERS, INC.

For Clerk Only

IRS entry date

Judge Assigned

RJI Date

Date issue joined: 1/10/08 Bill of particulars served (Y/N): ☐ Yes ☒ No

NATURE OF JUDICIAL INTERVENTION (check ONE box only AND enter information)

- ☐ Request for preliminary conference
☐ Note of issue and/or certificate of readiness
☒ Notice of motion (return date: 3/21/08; Relief sought: default judgment)
☐ Order to show cause (clerk enter return date: Relief sought:)
☐ Other ex parte application (specify:)
- ☐ Notice of petition (return date: Relief sought:)
☐ Notice of medical or dental malpractice action (specify:)
☐ Statement of net worth
☐ Writ of habeas corpus
☐ Other (specify:)

NATURE OF ACTION OR PROCEEDING (Check ONE box only)

UNTESTIMONIAL

- ☐ Contested -CM
☐ Uncontested -UM

COMMERCIAL

- ☐ Contract -CONT
☐ Corporate -CORP
☐ Insurance (where insurer is a party, except arbitration) -INS
☐ UCC (including sales, negotiable instruments) -UCC
☐ *Other Commercial -OC

REAL PROPERTY

- ☐ Tax Certiorari -TAX
☐ Foreclosure -FOR
☐ Condemnation -COND
☐ Landlord/Tenant -LT
☐ *Other Real Property -ORP

OTHER MATTERS

- ☒ FMLA -OTM

TORTS

Malpractice

- ☐ Medical/Podiatric -MM
☐ Dental -DM
☐ *Other Professional -OPM

- ☐ Motor Vehicle -MV
☐ *Products Liability -PL

- ☐ Environmental -EN
☐ Asbestos -ASE
☐ Breast Implant -BI
☐ *Other Negligence -OTN

- ☐ *Other Tort (including intentional) -OT

SPECIAL PROCEEDINGS

- ☐ Art. 75 (Arbitration) -ART75
☐ Art. 77 (Trusts) -ART77
☐ Art. 78 -ART78
☐ Election Law -ELEC
☐ Guardianship (MHL Art. 81) -GUARD81
☐ *Other Mental Hygiene -MEYG
☐ *Other Special Proceeding -OSP

(Name)(s): 12008.v2

NOTICE: KIDDER SEER IS NECESSARY TO PROVIDE RELEVANT INFORMATION

I AFFIRM UNDER PENALTY OF PERJURY THAT, TO MY KNOWLEDGE, OTHER THAN AS NOTED ABOVE, THERE ARE AND HAVE BEEN NO PRIOR ACTIONS OR PROCEEDINGS, NOR HAS A REQUEST FOR JUDICIAL INTERVENTION PREVIOUSLY BEEN FILED IN THIS ACTION OR PROCEEDING.

Dated: 3/5/08

(Signature)
(PRINT OR TYPE NAME)
ATTORNEY FOR

UNKNOWN

RELATED CASES: (If NONE, write "NONE" below)
Title Index # Court Nature of Relationship

UNKNOWN

INSURANCE CARRIERS:

*Self Represented: parties representing themselves, without an attorney, should check the "Self Rep." box and enter their name, address, and phone # in the space provided above for attorneys.

Self Rep.	Name	Address	Phone #
<input type="checkbox"/>	Edwards, Angell, Palmer + Dodge	750 Lexington Ave	(212) 912-2187
<input type="checkbox"/>		NY, NY 10022	

ATTORNEY(S) FOR DEFENDANT(S):

Self Rep.	Name	Address	Phone #
<input type="checkbox"/>	The Law Firm of Loh	1613 Northern Blvd.	(516) 625-0105
<input type="checkbox"/>	Ginsberg, P.C.	Roslyn, NY 11576	

ATTORNEY(S) FOR PLAINTIFF(S):

Has summons been served? ☐ No ☐ Yes, Date _____

Was a Notice of No Necessity filed? ☐ No ☐ Yes, Date _____

Completed Matrimonial cases only: (Check and give date)

☐ Expedited: 0-8 months ☒ Standard: 9-12 months ☐ Complex: 13-15 months

Estimated time period for case to be ready for trial (from filing of NOI to filing of Note of Issue):

(This applies to all cases except contested matrimonial and tax controversy cases)

Pre-Nuptial Agreement: ☐ YES ☒ NO

Does this action/proceeding seek recovery for personal injury? ☐ YES ☒ NO

Does this action/proceeding seek recovery for property damage? ☐ YES ☒ NO

Does this action/proceeding seek equitable relief? ☐ YES ☒ NO

Is this action/proceeding against a ☐ YES ☒ NO

Specifically: ☐ YES ☒ NO

Public Authority: ☐ YES ☒ NO

Check "YES" or "NO" for each of the following questions:

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK**

JOSEPH DI GIOVANNA,

Plaintiff,

-against-

**BETH ISRAEL MEDICAL CENTER,
and CONTINUUM HEALTH PARTNERS, INC.**

Defendants.

NOTICE OF MOTION

**The Law Firm of Louis Ginsberg P.C.
1613 Northern Blvd.
Roslyn, NY 11576
(516) 625- 0105**

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK**

JOSEPH DI GIOVANNA,

Plaintiff,

-against-

**BETH ISRAEL MEDICAL CENTER and,
CONTINUUM HEALTH PARTNERS, INC.,**

Defendants.

REQUEST FOR JUDICIAL INTERVENTION

**The Law Firm of Louis Ginsberg P.C.
1613 Northern Blvd.
Roslyn, NY 11576
(516) 625- 0105**